

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

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2016 AUG 15 AM 8:44

In the Matter of)

MUR 6998)

Rohit Khanna)

Ro for Congress, Inc.)

Reena Rao, as treasurer)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY
SYSTEM

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GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances or, where the record indicates that no violation of the Act has occurred, to make no reason to believe findings. The Office of General Counsel has scored MUR 6998 as a low-rated matter and has determined that it should not be referred to the Alternative Dispute Resolution Office.¹

The Office of General Counsel recommends that the Commission find no reason to believe that Rohit Khanna,² Ro for Congress, Inc., and Reena Rao, in her official capacity as treasurer

¹ The EPS rating information is as follows:
Rohit Khanna filed: Apr. 8, 2016.

Complaint filed: Jan. 4, 2016. Response from

² Rohit Khanna is a candidate for the United States House of Representatives for California's 17th Congressional District.

1 (collectively, the "Committee"), violated the Act by obtaining information from federal campaign
2 finance reports for the purpose of soliciting contributions.³

3 The Complaint stems from an email that George Koo, the Complainant, received from
4 Khanna on October 3, 2015.⁴ The email criticized Representative Mike Honda, one of Khanna's
5 opponents, and asked Koo to contact Khanna to discuss the congressional race and Khanna's policy
6 ideas.⁵ Koo has previously donated to Rep. Honda, but has not previously had contact with the
7 Committee.⁶ The Complaint therefore surmises that the Committee obtained Koo's email address
8 from Rep. Honda's disclosure reports that were filed with the Commission.⁷

9 The Committee denies violating the sale and use provisions of the Act and Commission
10 regulations, and states that Khanna learned Koo's email address by virtue of their personal
11 relationship.⁸ In support, Khanna attaches copies of personal emails with his Response.⁹ Most of
12 these emails were sent to groups of people, including Koo and Khanna.¹⁰ However, on
13 December 5, 2009, the two men directly emailed each other.¹¹ The Committee also points out that
14 email addresses are not included with contributor information that is published on the Commission's
15 website.¹²

³ 52 U.S.C. § 30111(a)(4); 11 C.F.R. § 104.15(a).

⁴ Compl. at 1; *id.*, Attach 1; Resp., Attach 1.

⁵ Compl., Attach 1.

⁶ Compl. at 1.

⁷ *Id.*

⁸ Resp. at 1.

⁹ Resp., Attach 1.

¹⁰ *Id.*

¹¹ *Id.*

1 Political committees are required to file reports with the Commission identifying the names
2 and mailing addresses of contributors who make contributions exceeding \$200 during the election
3 cycle.¹³ The Act provides that the Commission shall make these reports and statements available to
4 the public for inspection and copying within 48 hours of receipt.¹⁴ Any information from such
5 reports may not be sold or used by any person for the purpose of soliciting contributions or for
6 commercial purposes, other than using the name and address of a political committee to solicit
7 contributions from that political committee.¹⁵

8 While the Complaint alleges that the Committee illegally obtained Koo's email address from
9 Honda's federal campaign filings, the Response shows that Khanna has had Koo's email address, by
10 virtue of their personal relationship, for many years. Throughout that time, Khanna and Koo have
11 both emailed each other and received some of the same email messages. As such, the Office of
12 General Counsel recommends that the Commission find no reason to believe that the Committee
13 violated 52 U.S.C. § 30111(a)(4).

14 **RECOMMENDATIONS**
15

- 16 1. Find no reason to believe that Rohit Khanna, Ro for Congress, Inc., and Reena Rao, as
17 treasurer, violated 52 U.S.C. § 30111(a)(4);
18
19 2. Approve the Factual and Legal Analysis;
20
21 3. Approve the appropriate letters; and
22
23 4. Close the file.
24
25

¹² Resp. at 2.

¹³ 52 U.S.C. § 30104(b)(3)(a); 11 C.F.R. § 104.8(a).

¹⁴ 52 U.S.C. § 30111(a)(4).

¹⁵ *Id.*; see also 11 C.F.R. § 104.15(a).

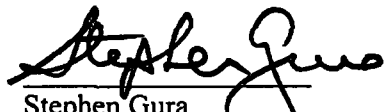
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